

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA,	)	
Respondent	)	
	)	
v.	)	Civil Action No. 09-198
	)	Criminal No. 04-109
TERRANCE LARNELL COLE,	)	Electronically Filed
Petitioner	)	

**ORDER OF COURT**

On February 22, 2010, this Court issued a Memorandum Opinion and Order denying petitioner Terrance L. Cole's Motion to Vacate Sentence under 28 U.S.C. § 2255, but did not address the matter of a Certificate of Appealability. Petitioner now has filed a Motion for a Certificate of Appealability (Docket No. 303), which the Court will deny.

Section 102 of the Antiterrorism and Effective Death Penalty Act, 28 U.S.C. § 2253 (as amended), codified the standards governing the issuance of a certificate of appealability. Amended Section 2253 provides that "[a] certificate of appealability may issue . . . only if the applicant has made a substantial showing of the denial of a constitutional right." Where the federal district court has rejected a constitutional claim on its merits, "the petitioner must demonstrate that reasonable jurists would find the district court's assessment of the constitutional claims debatable or wrong . . . ." *Szuchon v. Lehman*, 273 F.3d 299, 312 (3d Cir. 2001) (quoting *Slack v. McDaniel*, 529 U.S. 473, 484 (2000)). A petitioner meets this standard if he can show that the issue "is debatable among jurists, or that a court could resolve the issue differently, or that the question deserves further proceedings." *McCracken v. Gibson*, 268 F.3d 970, 984 (10th Cir. 2001).

For the reasons set forth in the Memorandum Opinion of February 22, 2010 (Doc. No. 298), petitioner cannot demonstrate that reasonable jurists would find this Court's assessment of the constitutional claims debatable or wrong. None of the rulings on the several issues were close calls. Accordingly,

AND NOW, this 19<sup>th</sup> day of March, 2010, petitioner Terrance L. Cole's Motion for a Certificate of Appealability (Docket No. 303) is HEREBY DENIED.

s/ Arthur J. Schwab  
Arthur J. Schwab  
United States District Judge

cc: all counsel registered on ECF